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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,191	12/29/2000	Jean-Pierre Giruad	5094.035	8524

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EXAMINER

BUTLER, MICHAEL E

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/751,191

Applicant(s)  
Girvad

Examiner  
Michael E. Butler

Art Unit  
3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 21, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13, 46, and 47 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6, 7, 9-13, 46, and 47 is/are allowed.
- 6) ☒ Claim(s) 5 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election of invention I without traverse in Paper No. 5 of the restriction requirement is acknowledged and made final.

### ***Drawings***

2. New drawings will be required contingent upon allowance because the drawings were objected to by the draftsman/declared informal by the applicant.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5 and 8 are rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(re: cl5) applicant introduced locations: “substantially the bottom” and “substantially the top” in apparently trying to define the slot. Consider using a locale adjective such as “proximate” in place of the quantitative-qualitative adjective “substantially” or moving “substantially” immediately after second “extending” to read: “slot extending substantially from”

### ***Response to Amendments***

5. Applicant's amendment were effective in distinguishing applicant's invention over the prior art. Applicant's amendments were effective in overcoming the previous rejections under 35 U.S.C. 112 second paragraph.

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*Allowable Subject Matter*

6. Claims 1-4, 6-7, 9-13 and 46-47 are allowed.

7. The prior art neither discloses nor obviates a test strip dispenser having housing, container within housing, movable body connected to button, movable body configured to engage test strip and partially displace strip from container in movable body's first position upon a first pushing of a button, movable body configured to engage test strip and fully displace strip from container in movable body's second position upon a second pushing of a button.

Of particular interest was Pawlo which discloses a strip dispenser having housing, container within housing, movable body engaging test strip to displace strip from container, body connected to actuator, movable mechanism drives body into engagement and displace a test strip dispenser having housing, container within housing, movable body connected to button, movable body configured to engage test strip and partially displace strip from container in movable body's first position upon a partial pushing of a button, movable body configured to engage test strip and fully displace strip from container in movable body's second position upon a full pushing of a button.. However, in Pawlo et al. lacks a button to engagement linkage mechanism that cycles the engagement mechanism and its reliant strip at a period less than the as Pawlo et al. discloses the simpler button to engagement linkages that coincide depression to engagement and release to retraction, and only the mechanical button linkage of fig. 4 has a separate full exposure contrasted to partial exposure of the strip and that being a result of a partial button depression rather than a cycling of the button. .

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Of further interest is Van Schie disclosing: a dispenser of rigid strips having housing, container within housing, movable body engaging test strip to displace strip from container, body connected to actuator, movable mechanism drives body into engagement a button-strip engagement linkage that results in a partial exposure of the strip out an opening and a movement to a second engagement position with full exposure of the strip a result of button release rather than the claimed system which cycles the engagement mechanism separately upon button cycling.

Draper et al. discloses a test strip dispenser having housing, container within housing, movable body electrically connected to button, movable body configured to engage test strip and partially displace strip from container in movable body's first position upon a first pushing of a button, movable body configured to engage test strip and fully displace strip from container in a subsequent cycling to movable body's first position upon a second pushing of a button. However, the engaging mechanism electrical linkage cycles the engaging mechanism one for one with the pushbutton with an incrementing of the strip upon the engaging mechanism.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on (703) 306-4173. The fax number for the Group is (703) 305-7687.

*Michael E. Butler*

Michael E. Butler

Examiner

  
DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600